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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

Arizona Corporation Commission

- DOUG LITTLE, Chairman
- BOB STUMP
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- TOM FORESE
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AZ CORP COM JUDGE
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IN THE MATTER OF THE APPLICATION
OF ARIZONA WATER COMPANY TO
EXTEND ITS CERTIFICATE OF
CONVENIENCE AND NECSSITY IN
CASA GRANDE, PINAL COUNTY,
ARIZONA.

Docket No. W-01445A-03-0559

**ARIZONA WATER COMPANY'S
RESPONSE TO CORNMAN
TWEEDY'S POST-HEARING
BRIEF**

**I. THE COMMISSION SHOULD DISMISS CORNMAN TWEEDY'S
REMAINING CLAIMS IN THIS PROCEEDING WITH PREJUDICE.**

It is now apparent from the testimony, exhibits and record of this case, as well as the opening briefs of Cornman Tweedy, Arizona Corporation Commission Utilities Division Staff ("Staff") and Arizona Water Company that under both the facts and controlling Arizona law the relief sought by Cornman Tweedy cannot be granted. This conclusion follows for these primary reasons:

- The Commission granted Arizona Water Company a CC&N for the Cornman Tweedy property based on a present need and necessity (Florence Country Estates, among others), and found that it was a fit and proper provider. Decision No. 66893. Despite Cornman Tweedy's efforts to thwart Arizona Water Company's compliance with the conditions imposed in the initial grant, the Commission subsequently reaffirmed the grant, making it unconditional. Decision No. 69722.
- There is no question that Arizona Water Company was properly granted a CC&N by the Commission to serve the Cornman Tweedy property. Under *James P. Paul Water Co. v. Arizona Corporation Commission*, 137 Ariz.

1 426, 671 P.2d 404 (1983), the Commission may delete a properly granted
2 CC&N only where the certificated provider fails to provide adequate service
3 at reasonable rates. Every fact and expert witness (from both parties) who
4 addressed this topic affirmed that Arizona Water Company is ready, willing
5 and able to provide adequate service at reasonable rates to the Cornman
6 Tweedy property. The fact that the initial request for service was withdrawn
7 following secret manipulations by Cornman Tweedy upon its purchase of
8 the underlying property does not change this conclusion. There is no legal
9 basis upon which the Commission may delete the CC&N on these facts
10 under the controlling law set out in *James P. Paul*.

- 11 • Cornman Tweedy advocates for deletion based upon arguments that only
12 relate to an initial grant of a CC&N. However, this is not an initial grant
13 proceeding. It is a deletion proceeding. All of Cornman Tweedy's
14 arguments regarding the benefits of integration, the present lack of need or
15 necessity, and its personal desire to have the property served by its own
16 affiliated entity are irrelevant here.
- 17 • The route to deletion under the "reasonableness" standard voiced in the
18 remand order would be through A.R.S. § 40-321, as recognized by Staff,
19 unless the Commission is prepared to take the position that providing only
20 water service while another entity provides wastewater service is in and of
21 itself inadequate (which would be a very dangerous public policy precedent
22 that would negatively impact hundreds of water-only utility service
23 providers in Arizona). To effect a deletion through A.R.S. § 40-321, the
24 Commission would first have to find that the only means to provide
25 reasonable service to the Cornman Tweedy property would be through
26 integrated water and wastewater service, but only as defined by Cornman

1 Tweedy. However, under a Sec. 40-321 proceeding, the Commission would
2 need to provide Arizona Water Company with the opportunity first to
3 provide integrated service. This is a present impossibility given that
4 Picacho Sewer holds the wastewater CC&N for that property. The
5 Commission would have to (i) delete Picacho Sewer's CC&N, (ii) define
6 integration in such a manner that it encompasses situations where
7 unaffiliated public service corporations cooperate as if they are affiliated--
8 thus forcing unaffiliated companies to contract with each other, or (iii)
9 essentially hold that a stand-alone provider who is prevented from providing
10 integrated service because another entity holds the corresponding CC&N *de*
11 *facto* fails to provide reasonable service. All of these options are as equally
12 perilous as taking the position that providing non-integrated water services
13 is *per se* inadequate.

14 For all of these reasons, there is no justification for the relief Cornman Tweedy
15 seeks, and the time has come at the thirteen year mark of this docket to dismiss those
16 remaining claims with prejudice.

17 **II. THE COMMISSION'S ORDER SHOWS THAT CORNMAN TWEEDY'S**
18 **ASSERTION THAT ARIZONA WATER COMPANY HOLDS A**
19 **CONDITIONAL CC&N IS WRONG.**

20 Cornman Tweedy suggests that Arizona Water Company "holds something akin to
21 a conditional CC&N for the Cornman Tweedy Property, notwithstanding any other
22 language contained in Decision 69722." CT Brief, at 31. Cornman Tweedy concedes that
23 Decision No. 69722 contains all the language necessary to make Arizona Water
24 Company's CC&N unconditional and perfected. CT Brief, at 30, ll. 22-24. Cornman
25 Tweedy argues, however, that the Commission should ignore its own plain language in
26 Decision No. 69722 because the Commission remanded the matter, rather than opening a
new docket. In its effort to evade the Arizona Supreme Court's controlling *James P. Paul*

1 holding, Cornman Tweedy wrongly asserts that because the Commission decided to
2 consider Cornman Tweedy's deletion request in the same docket through a remand, rather
3 than opening a new docket, Arizona Water Company's "authority with respect to the
4 Cornman Tweedy Property has been implicitly restricted," thereby somehow allowing the
5 Commission to effectively turn back the clock and consider the relative attributes of
6 Arizona Water Company (and Picacho Water) as if this were an initial application
7 proceeding.

8 Cornman Tweedy's position is not supported by the record or controlling law. Its
9 position is belied by the fact that the Commission already held a hearing and issued a
10 decision on Arizona Water Company's CC&N application. Second, all parties agree,
11 Decision No. 69722 reaffirmed Arizona Water Company's fitness to serve the Extended
12 CC&N Area, deemed the conditions imposed by Decision No. 66893 satisfied in all
13 respects, and reaffirmed the initial grant. Decision No. 69722, FOF, ¶¶ 95, 97-99, COL, ¶
14 3. Third, the Commission expressly stated that this proceeding on remand is a deletion
15 proceeding: "Our subsequent proceeding on remand will be for the purpose of considering
16 whether the Cornman property should be *deleted* from the CC&N extension *granted* to
17 Arizona Water by Decision No. 66893." Decision No. 69722, FOF, ¶ 102 (emphasis
18 added). Fourth, the Commission stated that it was acting pursuant to its authority under
19 A.R.S. § 40-252. The Commission's authority to rescind, alter, or amend a CC&N under
20 A.R.S. § 40-252 only comes into play once a CC&N has been granted. *See, e.g., James*
21 *P. Paul; Davis v. Corporation Commission*, 96 Ariz. 215, 217-18, 393 P.2d 909, 910-11
22 (1964) (power of Commission to rescind, alter or amend a CC&N "after it has once been
23 granted" is granted by A.R.S. § 40-252); *Arizona Corporation Commission v. Tucson Ins.*
24 *& Bonding Agency*, 3 Ariz. App. 458, 463, 415 P.2d 472, 477 (1966) (citing A.R.S. § 40-
25 252 in explaining "[t]he commission, however, is vested with power to rescind, alter or
26 amend a certificate of convenience and necessity *after it has once been granted.*"

1 (emphasis added)). Finally, there is no language in Decision No. 69722 that restricts in
2 any way Arizona Water Company's CC&N authority with respect to the Cornman Tweedy
3 property. And Cornman Tweedy provides no authority to support its proposition. *See*
4 Decision No. 69722; CT Brief, at 31. Thus, Cornman Tweedy's position directly conflicts
5 with Arizona law and this Commission's rulings and decisions. This deletion proceeding
6 is no different than if the Commission had required Cornman Tweedy to file a separate
7 application requesting deletion, and Cornman Tweedy's assertions that the procedural
8 oddities it largely created somehow changes the nature of the proceeding cannot stand.

9 **III. THE STANDARD FOR DELETION SET OUT IN *JAMES P. PAUL***
10 **CONTROLS.**

11 There is no dispute that "the public interest is the controlling factor in decisions
12 concerning service of water by water companies." *James P. Paul*, 137 Ariz. at 429, 671
13 P.2d at 407. But where, as here, the Commission has granted a CC&N to a public service
14 corporation to serve a particular area, "the public interest requires that the corporation be
15 allowed to retain its certificate until it is unable or unwilling to provide needed service at a
16 reasonable rate." The mere opportunity for a CC&N holder to provide adequate service
17 at a reasonable rate serves the public interest. *Id.* (citing *Application of Trico Elec.*
18 *Cooperative, Inc.*, 92 Ariz. 373, 377 P.2d 309 (1962)). The Arizona Supreme Court stated
19 broadly and unequivocally in *James P. Paul* that, "[o]nce granted, the certificate confers
20 upon its holder an exclusive right to provide the relevant service for as long as the grantee
21 can provide adequate service at a reasonable rate." 137 Ariz. 426, 429, 671 P.2d 404, 407.

22 The Commission would be acting "beyond the scope of its authority" if it deleted
23 Arizona Water Company's CC&N for the Cornman Tweedy property in the face of *no*
24 *evidence whatsoever* that Arizona Water Company was (i) presented with a demand for
25 service which is reasonable and (ii) failed to supply such service at a reasonable cost.
26 *James P. Paul*, 137 Ariz. 426, 431, 671 P.2d 404, 409. The Commission granted Arizona

1 Water Company a CC&N to serve the Extended CC&N Area, including the Cornman
2 Tweedy property, in 2004. At that time, in keeping with its statutorily required duty, the
3 Commission investigated Arizona Water Company's application for certification and
4 determined that issuance of a CC&N would serve the public interest. *See* A.R.S. §§ 40-
5 281 to 285; Decision No. 66893. That determination is now final and must be accorded
6 *res judicata* effect. As a result, at this point, AWC occupies the following legal position:
7 (1) service by AWC is in the public interest, and (2) as long as it is ready, willing, and
8 able to provide adequate service at reasonable rates, AWC holds the exclusive right to
9 supply the service. Accordingly, under *James P. Paul*, unless and until there is evidence
10 that Arizona Water Company is unable or unwilling to provide adequate service at
11 reasonable rates, deletion is neither in the public interest nor legally permissible.
12 Cornman Tweedy concedes, and Staff agrees, that no such evidence exists. *See* CT Brief,
13 at 33; Staff Brief, at 10-11.

14 **A. Cornman Tweedy's Assertion That Applying *James P. Paul* In This**
15 **Matter Would Be "Nonsensical" Has No Merit.**

16 Cornman Tweedy concedes that deletion is not appropriate under *James P. Paul*,
17 but argues that *James P. Paul* therefore cannot control because, otherwise, "it would have
18 been completely nonsensical (and not to mention a tremendous waste of time) for the
19 Commission to remand this case." CT Brief, at 33. As already discussed (*supra*, at 4;
20 AWC Brief, at 16-17), this remand proceeding is no different than if Cornman Tweedy
21 had filed a separate application for deletion. The Commission has ordered that Cornman
22 Tweedy's deletion request should be given consideration, and that Arizona Water
23 Company be given the notice and opportunity to be heard, just as it would have if
24 Cornman Tweedy had been required to file a separate application. The procedural
25 distinction is of no significance.

26 For these reasons, the Commission has no need to consider the principles of

1 statutory construction as suggested by Cornman Tweedy. See CT Brief, at 33-34.
2 Moreover, Cornman Tweedy's statutory construction arguments make no sense as applied
3 to this case. Commission decisions and procedural orders, however well-considered and
4 articulated, are not equivalent or even comparable to statutes. Unlike a statute,
5 Commission decisions and procedural orders are not subjected to the same legislative
6 process under which a statute is created and adopted. Nor are Commission decisions and
7 procedural orders intended to overrule legislative enactments; rather, they should be
8 consistent with those enactments. Accordingly, those principles of statutory construction
9 are neither pertinent nor helpful here.

10 **B. Cornman Tweedy's Attempts To Distinguish *James P. Paul* Are Equally**
11 **Without Merit.**

12 Cornman Tweedy argues that *James P. Paul* is also inapplicable here because it is
13 distinguishable from the record in this matter on various points, each of which are here
14 addressed. CT Brief, at 34-35. The fact that *James P. Paul* was decided more than 30
15 years ago is irrelevant. It is the controlling law. See, e.g., *Arizona Water Co. v. Arizona*
16 *Corporation Commission*, 217 Ariz. 652, 656, 177 P.3d 1224, 1228 (Ct. App. 2008)
17 (citing *James P. Paul* for proposition that certificate holder cannot be divested of CC&N
18 unless it fails to provide adequate service at reasonable rates); *City of Bisbee v. Arizona*
19 *Water Co.*, 214 Ariz. 368, 377, 153 P.3d 389, 398 (Ct. App. 2007) (same); *U S West*
20 *Communications, Inc. v. Arizona Corporation Commission*, 197 Ariz. 16, 3 P.3d 936, 942
21 (Ct. App. 1999) (same).

22 Whether stand-alone providers were the "norm" at the time the Arizona Supreme
23 Court issued the *James P. Paul* opinion is also irrelevant. See CT Brief, at 34. The rule
24 of law set out by the Arizona Supreme Court was not contingent on the type of service
25 provided, and is applicable not only to water utilities, but also wastewater utilities, electric
26 utilities, and all other manner of regulated utilities. See *James P. Paul*, (referring

1 generally to "public service corporations"); *see also* *US West Comm'ns*, 197 Ariz. at 21, 3
2 P.3d at 941 (citing *James P. Paul* in telecommunications case). As the Arizona Supreme
3 Court explained, it is at the time of the initial grant that the Commission compares the
4 capabilities and qualifications of applicants and makes the determination as to whether
5 issuance of a CC&N to a particular applicant would serve the public interest. Once that
6 certificate is granted, as is the case here, the capabilities of the service provider are not in
7 question. Instead, the question becomes whether the CC&N holder, presented with a
8 reasonable demand for service, has failed to supply such service to customers at a
9 reasonable cost. Accordingly, the fact that integration was not at issue and was not
10 addressed in *James P. Paul* does not undermine its applicability here.

11 Cornman Tweedy erroneously claims that a "demonstrated need for water service"
12 in *James P. Paul* is a critical distinguishing factor. CT Brief, at 35. When Paul obtained
13 the CC&N in that case, the certificated area was undeveloped and, prior to Pinnacle's
14 petition to delete, Paul had received no demand for water service to the contested area.
15 *James P. Paul*, 137 Ariz. at 433, 671 P.2d at 411. Regardless, the Arizona Supreme Court
16 noted that a later determination by the Commission that there was no public need and
17 necessity for a certificate was insufficient to justify deletion once the certificate had been
18 granted. *Id.* at 429 n.3, 671 P.2d at 407. Moreover, Cornman Tweedy's deliberate
19 decision to postpone development of the property to support its deletion efforts hardly
20 proves a lack of need and necessity,¹ given Cornman Tweedy's admission that they will
21 develop the property within five to ten years, or sell it to someone who will.

22 Finally, the Arizona Supreme Court did not impose any requirement in *James P.*
23 *Paul* that a CC&N holder must have held that CC&N for a specific period of time before
24 it has the opportunity to provide adequate service at reasonable rates prior to any possible

25 _____
26 ¹ Interestingly, much like in this case, Pinnacle's owner had a 50% interest in the
property owner, and the property owner had made no demand for service on Paul and then
subsequently left Paul's request for engineering plans unanswered.

1 deletion. "Once granted," the CC&N holder enjoys that unqualified opportunity. Here,
2 the Commission granted Arizona Water Company a CC&N for the Extended CC&N
3 Area. Therefore, whether Arizona Water Company held it for "several years" or one day,
4 the Commission granted the Company a CC&N and that CC&N can only be deleted if the
5 Commission finds that the evidence satisfies the *James P. Paul* standard for deletion.

6 **IV. CORNMAN TWEEDY BEARS THE BURDEN OF PROOF.**

7 Cornman Tweedy asserts that no party bears the burden of proof in this deletion
8 proceeding because Decision No. 69722 did not assign the burden to any particular party.
9 CT Brief, at 35-36. That position is untenable. Cornman Tweedy is the proponent of
10 deletion and, thus, bears the burden of proof.² Staff agrees. *See* AWC Brief, at 20; Staff
11 Brief, at 12.

12 **V. UNDER THE CIRCUMSTANCES IN THIS CASE, ARIZONA WATER**
13 **COMPANY IS PROVIDING REASONABLE SERVICE.**

14 **A. Cornman Tweedy's Asserted Lack Of Need For Water Service To The**
15 **Cornman Tweedy Property Does Not Support Deletion Under The**
Circumstances Of This Case.

16 The fact that Cornman Tweedy has voluntarily postponed its development plans for
17 the Cornman Tweedy property cannot justify deletion here. First, this is not an initial
18 grant proceeding, and the Arizona Supreme Court suggests that, after an initial grant, the
19 lack of a present need or necessity is insufficient grounds for deletion. *James P. Paul*,
20 137 Ariz. at 429 n. 3, 671 P.2d at 407. Moreover, the Commission initially granted the
21 Extended CC&N Area to Arizona Water Company based in part on a request for service
22 from Cornman Tweedy's immediate predecessor--so there was a proven need and
23 necessity at the time the CC&N was granted. Further, Cornman Tweedy's actions are
24 self-serving and are designed to further its own economic self-interests, so its repeated
25

26 ² The parties concur that the standard of proof is a preponderance of the evidence.
See CT Brief, at 36; Staff Brief, at 12-13; AWC Brief, at 20.

1 assertions that there is no need for water service lacks any credibility or weight. Cornman
2 Tweedy admits that it will develop the property or sell it to someone who will within the
3 next five to ten years. So there is a need and necessity for water service to the Cornman
4 Tweedy property in any case.

5 **B. Cornman Tweedy's Desire To Be Served By Another Water Company**
6 **Is Not Grounds For Deletion Of Arizona Water Company's CC&N For**
7 **The Cornman Tweedy Property.**

8 The fact that Cornman Tweedy does not want water service from Arizona Water
9 Company is not a relevant consideration in a deletion proceeding for the reasons already
10 articulated. AWC Brief, at 41. The Commission already granted Arizona Water
11 Company the CC&N based on requests for service from developers in the area, including
12 Cornman Tweedy's immediate predecessor, and Cornman Tweedy purchased the
13 Cornman Tweedy property with full knowledge of Arizona Water Company's CC&N.
14 Further, because this is not an initial CC&N grant proceeding, the relative cost savings
15 and conveniences to Cornman Tweedy of service by its captive water company and the
16 relative capabilities and operational attributes of Arizona Water Company versus Picacho
17 Water are not at issue here.

18 Regardless, Cornman Tweedy's contentions that service by Arizona Water
19 Company will increase infrastructure costs and cause time delays are unsupported by the
20 evidence. CT Brief, at 9-13. Indeed, Cornman Tweedy's assertion, which is largely based
21 on Dr. Goldman's Direct Testimony from January 2008, is based entirely upon a false
22 premise: that Arizona Water Company will need to build an independent, isolated water
23 system to serve the Cornman Tweedy property. Goldman Direct (1/4/2008), at 4:13-17;
24 CT Brief, at 9-12 (relying on Dr. Goldman's direct testimony based upon the erroneous
25 premise). All of Dr. Goldman's prognostications as to extra infrastructure costs stem from
26 this false premise, including the purported costs for extra wells, water storage, booster
pump capacity, land acquisition and design costs, pressure zones, and limited well site

1 options. See Goldman Direct (1/4/2008), at 4-10. As explained by Arizona Water
2 Company's Vice President of Engineering, Fredrick K. Schneider:

3 There is no basis whatsoever for this assertion [that Arizona Water Company
4 will need to build an independent, isolated water system to serve the
5 Cornman Tweedy property]. As Arizona Water Company's witnesses have
6 previously testified in this proceeding, its plan has been, and consistently
7 remains, that *it will serve Cornman Tweedy's EJ Ranch development from*
8 *Arizona Water Company's integrated water systems.* Since Decision No.
9 66893 was entered and in accordance with Arizona Water Company's Pinal
10 Valley Water System Master Plan, Arizona Water Company's Coolidge water
11 system has been integrated with its Casa Grande water system. The Casa
12 Grande water system alone has 19 wells, over 15 million gallons of storage
13 and over 450 miles of distribution mains providing more reliability and
14 redundancy than any other water system in the Pinal Valley. Essentially, the
15 Cornman Tweedy 1,138 acres will be fully integrated with the Company's
16 128,000 acres of existing Casa Grande and Coolidge CCN areas where
17 Arizona Water Company has existing offices, customer service staff and
18 qualified, trained, and state-certified operational personnel. These personnel
19 live in the community, are direct employees of the Company and report
20 directly to Arizona Water Company's local management.

21 Schneider Rebuttal-Phase I, at 6:8-7:8 (emphasis added). In addition, Mr. Schneider
22 testified that the Cornman Tweedy property will not incur additional water infrastructure
23 costs by being integrated with Arizona Water Company's CC&N:

24 [T]here will be cost savings from interconnection with the larger regional
25 Pinal Valley Water System, just as there were for the Saddlebrooke Ranch
26 development.... The Cornman Tweedy development and Arizona Water
Company's ratepayers located within the Cornman Tweedy development will
also significantly benefit by having more reliable, cost-effective, efficient
water service. Arizona Water Company has a long list of company-
employed experts who can be called up, and it operates its water systems
with its own trained staff. This means Arizona Water Company does not
outsource operational services, customer service or routine maintenance.
Arizona Water Company is not a homebuilder or developer, its business is
providing water utility service.

Schneider Rebuttal-Phase I, at 9:11-24.

All of Dr. Goldman's testimony regarding infrastructure and increased costs is also

1 speculative. Dr. Goldman did not conduct any independent investigation or study
2 concerning Arizona Water Company's plans for providing water service to the Cornman
3 Tweedy property. Transcript, at 257:20-260:8 (Goldman testimony as to how he only
4 relied on pre-filed testimony and exhibits). Nor did Dr. Goldman meet with any
5 representative from Arizona Water Company to discuss the conclusions he reached or to
6 confirm if his assumptions as to how Arizona Water Company would serve the Cornman
7 Tweedy property were correct. Transcript, at 247:9-21 (Goldman testimony revealing that
8 he did not sit down with anybody from Arizona Water Company to reach his opinions).
9 Although Dr. Goldman contends that he relied on information gleaned from Arizona
10 Water Company's pre-filed testimony, that very testimony contradicts Dr. Goldman's
11 major premise. For instance, in his direct testimony in Phase II, Mr. Schneider reiterated
12 Arizona Water Company's plans to serve the Cornman Tweedy property from its
13 comprehensive water system and even provided the Company's updated plans for doing
14 so. Schneider Direct-Phase II, at 7:1-15 and Exs. FKS-3 & FKS-5.

15 Dr. Goldman's conclusions are flawed on several additional fronts. For instance,
16 the evidence does not support Dr. Goldman's conclusion that Arizona Water Company
17 will need to drill two extra wells to serve the Cornman Tweedy property. *See* CT Brief, at
18 10, ll. 4-14 (citing Goldman Direct, at 4-6). The evidence also negates Dr. Goldman's
19 speculation that limitations on well site options would further increase infrastructure costs
20 for the Cornman Tweedy property. *See* CT Brief, at 11, ll. 10-19. Rather:

21 Arizona Water Company will serve the Cornman Tweedy property in
22 Arizona Water Company's CCN area from its integrated Pinal Valley Water
23 System.... Arizona Water Company has far-reaching sources of supply that
24 are not geographically restricted, as are Picacho Water Company's, and
25 unlike Picacho Water Company, Arizona Water Company is able to draw
from a diverse variety of sources from a wide region currently covering over
two hundred square miles.

26 Schneider Rebuttal-Phase I, at 7:9-20. Exhibits FKS-3 shows only one well located in the

1 Cornman Tweedy property--no different than Cornman Tweedy's plans. *Compare*
2 Schneider Direct-Phase II, at Ex. FKS-3, *with* Goldman Direct, at Ex. C. Exhibit FKS-3
3 also shows that Arizona Water Company has planned for three wells for the PhoenixMart
4 project adjacent to the Cornman Tweedy property and, thus, is further evidence that
5 Arizona Water Company's planning will not require it to drill more wells for the Cornman
6 Tweedy area than Cornman Tweedy already plans to drill as theorized by Dr. Goldman.

7 Dr. Goldman also theorized additional costs would stem from the construction of
8 extra water storage and booster pump capacity. *See* CT Brief, at 10-11. However:

9 Arizona Water Company's Casa Grande and Coolidge integrated water
10 systems currently have fire flow capacity well in excess of the fire flows Dr.
11 Goldman testifies to, and Arizona Water Company would not require
12 additional fire flow storage from Cornman Tweedy. In addition, the fire flow
13 capacity availability will increase as Arizona Water Company's integrated
14 water system expands regionally. This is typical of the wide-scale economies
15 achieved by Arizona Water Company and represents a significant savings to
16 Cornman Tweedy and to Arizona Water Company's ratepayers, including
17 those located within the Cornman Tweedy property. No redundancy in fire
18 flow storage, booster pump capacity or costs will result, contrary to Dr.
19 Goldman's testimony.

20 Schneider Rebuttal-Phase I, at 7:21-8:8.

21 Dr. Goldman also guesses at potential costs from an additional pressure zone. *See*
22 CT Brief, at 11-12. Goldman admits, however, that he lacks any evidence to establish that
23 dual pressure zones would increase infrastructure costs, let alone in a material manner.
24 Goldman Rebuttal (7/18/2014), at 6:17-24 ("The engineering data does not exist at this
25 time for me to determine the cost impact of two pressure zones...."). Dr. Goldman's
26 theory further fails to account for Arizona Water Company's economies of scale and how
that will minimize any potential costs attendant to an additional pressure zone.

Dr. Goldman further speculates that Arizona Water Company would have to
construct an "island facility" with a separate water plant, resulting in additional land and
design costs, because the Cornman Tweedy property is located three miles from Arizona

1 Water Company's existing facilities. *See* CT Brief, at 11; Goldman Direct-Phase I, at
2 9:17-10:22. Here again, however, Dr. Goldman's testimony is refuted by the evidence.
3 First, it disregards the fact that Arizona Water Company will serve the Cornman Tweedy
4 property from Arizona Water Company's extensive and interconnected Casa Grande and
5 Coolidge water systems, making all the assumed duplicative infrastructure unnecessary.
6 Schneider Rebuttal-Phase I, at 6:8-27. It also disregards Mr. Schneider's testimony that
7 Arizona Water Company will extend the water distribution system for PhoenixMart (and
8 Post Ranch) to Cornman Tweedy, both of which are directly adjacent to the Cornman
9 Tweedy property. Schneider Direct-Phase II, at Exs. FKS-3 & FKS-5. "Extending water
10 distribution mains from PhoenixMart to Cornman Tweedy property will increase
11 redundancy and reliability and reduce the extent and cost of infrastructure needed to
12 provide water service to the Cornman Tweedy property." Schneider Direct-Phase II, at
13 7:1-15.

14 As made clear through the examples set forth above, Dr. Goldman's testimony that
15 service of the Cornman Tweedy property by Arizona Water Company would result in
16 about \$4 million in additional infrastructure costs (*see* CT Brief, at 10) is simply
17 unsupported by any evidence.

18 Cornman Tweedy's arguments that it would incur added costs and time delays in
19 dealing with Arizona Water Company are untrue. *See* CT Brief, at 12. First, the
20 purported "time delays" alleged by Mr. Poulos are not supported by any evidence. As
21 explained by Mr. Schneider:

22 Mr. Poulos' complaints are symptomatic of a developer which elevates its
23 own interests over the utility's and the customers' interests. Mr. Poulos
24 unfairly and unrealistically expects Arizona Water Company and its staff to
25 react instantaneously to his unreasonable demands, even demanding that
26 utility construction proceed without required ADEQ and ACC regulatory
approvals.... [A] public service corporation, like Arizona Water Company,
cannot and should not circumvent ADEQ and ACC rules, and other

1 applicable rules, regulations, and standards.... Arizona Water Company
2 policies and standards assure compliance with all applicable City, County
3 and State rules, and Arizona Water Company does not take short cuts,
4 jeopardize the public health or safety or make risky exceptions to the rules in
5 such a helter-skelter effort to market a developer's homes.

6 Schneider Rebuttal-Phase I, at 5:19-6:7. However, there is no evidence that Arizona
7 Water Company's design review process results in undue delays. Schneider Rebuttal-
8 Phase I, at 8:9-26, 9:1-10. In addition, there is no evidence to support a finding that
9 Cornman Tweedy will incur any additional material costs working with Arizona Water
10 Company, as opposed to its captive water utility. Indeed, Mr. Poulos' estimate that a
11 Robson affiliate incurred \$100,000 in extra costs at its Saddlebrooke Ranch development
12 is simply not true--Arizona Water Company achieved millions of dollars in costs savings
13 for the Saddlebrooke Ranch development. *See* Schneider Rebuttal-Phase I, at 4:25-5:18.

14 Finally, testimony regarding Picacho Water's lost economies of scale are not
15 pertinent here. *See* CT Brief, at 12-13. The Commission has made it clear that this is not
16 a matter involving competing applications. Decision No. 69722, FOF, ¶ 94; Procedural
17 Order (9/5/2008), at 9. Regardless, Picacho Water's and Cornman Tweedy's self-interest
18 concerning improved economies for their own utility is not germane, and is somewhat of a
19 misdirection. At issue is the Cornman Tweedy property, and service of the Cornman
20 Tweedy property by Arizona Water Company would create greater economies of scale,
21 the benefit of which would inure to the customers within the Cornman Tweedy property.

22 **C. Several Of The Benefits Of An Integrated Water And Wastewater
23 Utility Will Still Be Attainable If Arizona Water Company Continues
24 To Hold The CC&N For The Cornman Tweedy Property.**

25 Cornman Tweedy touts several benefits of integrated water and wastewater service
26 and then contends that those benefits are unattainable by stand-alone providers and that it
will lose the ability to receive integrated water and wastewater services if Arizona Water
Company maintains its water CC&N. CT Brief, at 13-22. Contrary to Cornman Tweedy's

1 narrative, however, Arizona Water Company has proven that (1) it is ready, willing and
2 able to provide integrated water and wastewater services to the Cornman Tweedy property
3 if provided with the opportunity to do so (which could be accomplished in numerous ways
4 as detailed in Arizona Water Company's evidence including, but not limited to its
5 partnership with PERC) and (2) it is able to provide reclaimed water service, either in
6 cooperation with Picacho Sewer, or with Global or the City of Casa Grande. *See, e.g.,*
7 AWC Brief, at 7-9, 27-28, 31.

8 Moreover, the record makes it clear that stand-alone providers can achieve many of
9 the same benefits achieved by integrated providers through cooperation. *See, e.g.,*
10 Transcript, at 202:23-203:8, 200:14-18, 202:23-203:8, 212:5-213:17, 291:2-12, 382:6-
11 383:24, 386:5-387:24, 499:8-500:14, 651:3-23, 657:1-659:5, 662:25-663:14. There is
12 nothing that prevents stand-alone providers from cooperating with each other to deal with
13 bill collection, treatment of waste streams, coordination of engineering and construction,
14 or, in particular, maximizing the beneficial use of reclaimed water, other than the parties'
15 willingness to do so. Such cooperation is possible under the circumstances in this case,
16 unless Robson's captive sewer provider refuses to do so. For instance, a stand-alone water
17 provider can cooperate, through contract or otherwise, with a stand-alone wastewater
18 provider to address waste stream issues, including the three waste stream issues raised by
19 Mr. Hendricks. *See* Transcript, at 212:5-213:8. Likewise, Arizona Water Company has
20 cooperated for years with wastewater providers in providing water use data. *Id.* at 384:16-
21 386:4, 497:18-498:18. And Arizona Water Company is willing to work with wastewater
22 providers to shut off water service where a customer has not paid the sewer bill.³ *Id.* at
23 514:22-516:10. Thus, many of the so-called benefits of integration are simply benefits
24 that derive from cooperation and coordination between water and wastewater utilities,

25 _____
26 ³ Of course, before Arizona Water Company could actually turn off a customer's
water for non-payment of sewer bills, it would have to obtain a variance from the
Commission, as would any other water utility. Transcript 515:5-9.

1 integrated or not. Arizona Water Company has made it clear that it is ready, willing, and
2 able to cooperate and coordinate with Picacho Sewer to achieve those benefits. *Id.* at
3 512:22-513:4; Garfield Surrebuttal-Phase II, at 14:17-15:2.

4 Moreover, Mr. Hendricks' testimony concerning the benefits of integration, upon
5 which Cornman Tweedy almost exclusively relies on this point, largely assumes a
6 comparison between integrated and non-integrated utilities that are equal in their scope of
7 operations. *See* CT Brief, at 13-19; Schneider Rebuttal-Phase I, at 10:15-16. But Arizona
8 Water Company and the Picacho utilities are hardly equivalent. Mr. Hendricks' analysis
9 inappropriately discounts Arizona Water Company's economies of scale and large
10 regional operations. The cost savings purportedly achieved by integrated water and
11 wastewater providers are for small, isolated systems. Those savings, such as they might
12 be, are not comparable to the far greater economies of scale achieved by Arizona Water
13 Company's Pinal Valley Water System. Schneider Rebuttal-Phase I, at 9:25-11:7. Mr.
14 Hendricks also fails to even consider Arizona Water Company's ability to provide
15 reclaimed water service or its ability to serve as a wastewater provider. Transcript, at
16 192:25-193:4, 193:17-25, 194:5-14, 195:7-10. And although Mr. Hendricks suggests that
17 training of personnel in an integrated system is more efficient (CT Brief, at 14), he fails to
18 detail how training is any more efficient between a small integrated provider and a stand-
19 alone provider like Arizona Water Company that operates a water system serving 269
20 square miles and that employs about 120 highly qualified and experienced certified
21 operators, over 40 of which work in the Pinal Valley Water System area. Schneider
22 Rebuttal-Phase I, at 11:1-4; Schneider Direct-Phase II, at 4:3-8.

23 Mr. Hendricks also claims that integrated utilities have the ability to share
24 employees, office space, and equipment, and perform work on both the water system and
25 sewer system simultaneously. CT Brief, at 14. Mr. Hendricks, however, is overstating
26 the matter. In reality, there are several regulations, primarily for public health reasons,

1 that prohibit companies from using tools on both water and wastewater systems, and that
2 further prohibit an employee from working on water and wastewater systems
3 simultaneously. *See* Schneider Rebuttal-Phase I, at 10:18-27; *see also* Transcript, at
4 145:2-9 (Soriano testifies that tools used for wastewater are spray-painted green so that
5 they are not used on the potable water system).

6 Mr. Hendricks' admits his testimony lacks any factual foundation relevant to these
7 proceedings. Mr. Hendricks touts the benefits of integration, but only in the most abstract
8 and generic sense. He did not do any research into the actual operational attributes or
9 capabilities of Arizona Water Company. Transcript, at 191:21-195:4, 205:19-206:17. He
10 does not provide any insight as to whether Picacho Water and Picacho Sewer will actually
11 achieve any of those efficiencies or provide any of the enumerated benefits. *Id.* at 203:9-
12 13, 207:9-21, 209:9-210:15. For instance, despite having emphasized that integrated
13 systems enable the water provider to assist the wastewater provider with collections, Mr.
14 Hendricks conceded that he lacks any knowledge about whether Picacho Water would be
15 willing to shut off water service for non-payment of sewer bills for Picacho Sewer.
16 196:22-197:2. Further, Mr. Hendricks testified that non-payment of sewer bills is not a
17 material problem for Robson-affiliated utilities, so the purported bill collection benefit is
18 not even a material consideration in this proceeding. Transcript, at 197:2-4.

19 Although Cornman Tweedy contends that Arizona Water Company will not
20 maximize the use of reclaimed wastewater as it contends an intergrated provider could,
21 the record shows that Arizona Water Company is committed to promoting and
22 maximizing the beneficial use of reclaimed water within its CC&N areas wherever
23 possible to preserve precious groundwater resources for those customers that have a need
24 for potable groundwater. *See, e.g.*, AWC Brief, at 7-9. Arizona Water Company's
25 delivery of reclaimed water in cooperation with Gold Canyon Sewer Company, the
26 Company's settlement agreement with Global, and the Company's partnerships with the

1 City of Casa Grande and the City of Coolidge are just a few of the examples in the record
2 that proves the Company's commitment to do so. *Id.*

3 It is undisputed that wastewater utilities, whether integrated or not, must manage
4 the reclaimed water they produce. Cornman Tweedy's assertion that an integrated
5 wastewater utility is better positioned than a stand-alone water or wastewater utility to
6 maximize the use of reclaimed water is, however, contradicted by the record. *See* CT
7 Brief, at 19-20. The evidence presented by Arizona Water Company shows that Arizona
8 Water Company maximizes the use of reclaimed water in its CC&N areas in cooperation
9 with other wastewater providers--integration is not necessary, only cooperation. The
10 AWC-Global settlement agreement is a prime example of Arizona Water Company's
11 leadership on this issue, as is Arizona Water Company's provision of reclaimed water
12 service under its relationship with Gold Canyon Sewer Company, and from Mountain
13 Pass Utility Company at Robson's Saddlebrooke Ranch with respect to the use of
14 reclaimed water.

15 Dr. Goldman suggests an integrated utility can maximize use of reclaimed water
16 because it is willing to accept displacement of sales of potable water in order to manage
17 disposal of reclaimed water or it might implement tariffs to promote the use of reclaimed
18 water by customers. CT Brief, at 19. Dr. Goldman further suggests that a stand-alone
19 water company lacks any incentive to promote the use of reclaimed water. *Id.* Arizona
20 Water Company, however, presented evidence that it is motivated to provide reclaimed
21 water in lieu of potable water to preserve and conserve groundwater within the Pinal
22 AMA.⁴ Transcript, at 379:10-381:3; Garfield Direct-Phase II, at 10:3-11:20 and Ex.
23 WMG-2. Arizona Water Company's commitment to promote and pursue the delivery of
24 reclaimed water to its customers arises from the Company's promotion of water
25

26 ⁴ Arizona Water Company's commitment to preserve groundwater is further
evidenced through delivery of CAP water to its customers. Transcript, at 380:13-381:3.

1 conservation in this water challenged area. Promoting conservation ensures crucial water
2 resources and is good business. Therefore, Dr. Goldman fails to account for the fact that
3 there are a number of motivations, whether monetary (as is the case for Robson-affiliated
4 utilities) or as a matter of good water management (in the case of Arizona Water
5 Company), for water and wastewater providers, integrated or not, to promote and
6 maximize delivery of reclaimed water to customers.

7 Mr. Hendricks' opinion that a non-integrated wastewater utility might not construct
8 reuse lines served by unaffiliated water utilities because there is no certainty that
9 reclaimed wastewater will be sold where potable water is available is also undermined by
10 the record. CT Brief, at 19. Cornman Tweedy relies on Jim Poulos' unequivocal assertion
11 that Cornman Tweedy will not construct infrastructure within the Cornman Tweedy
12 property to serve reclaimed wastewater "so long as AWC has the CC&N" to serve it as
13 further support for Mr. Hendricks' opinion. *Id.* at 19-20. Here again, however, the
14 evidence presented by Arizona Water Company demonstrates that stand-alone wastewater
15 utilities can achieve certainty that reclaimed water can and will be sold through an
16 agreement with a stand-alone water utility. *See, e.g.,* Garfield Direct-Phase II, at 10:5-
17 11:20 and Ex. WMG-1 (AWC-Global settlement agreement); Schneider Direct-Phase II,
18 at 12:4-13:8; Transcript, at 645:21-647:11, 657:1-659:5. Picacho Sewer can obtain the
19 certainty both Mr. Hendricks and Mr. Poulos suggest it needs to invest in the necessary
20 infrastructure for delivery of reclaimed water to the Cornman Tweedy property through an
21 agreement with Arizona Water Company concerning the sale and delivery of Picacho
22 Sewer's reclaimed water.

23 In an effort to bolster its unfounded narrative that Arizona Water Company cannot
24 maximize the use of reclaimed water, Cornman Tweedy distorts Arizona Water
25 Company's prior court proceedings concerning the delivery of reclaimed water within its
26 CC&N areas and contends that it shows "a concerning lack of commitment." *See* CT

1 Brief, at 21-22. But the Company's decades-old and now long concluded disputes with
2 the City of Bisbee and the City of Casa Grande arose because Arizona Water Company
3 wanted to provide reclaimed water service. These cases were not, as Cornman Tweedy
4 asks the Commission to infer, about Arizona Water Company generally opposing the
5 delivery of reclaimed water within its CC&N areas. Regardless, Arizona Water
6 Company, through testimony and exhibits, has shown that it embraces the use of
7 reclaimed water by its customers. AWC Brief, at 7-9.

8 In sum, Arizona Water Company can and will promote the beneficial use of
9 reclaimed water within its CC&N areas, including for the Cornman Tweedy property.
10 And Arizona Water Company has proven that it will work with Robson-affiliated utilities
11 to that end through its cooperation with Mountain Pass Utility Company at Saddlebrooke
12 Ranch.

13 **D. Arizona Water Company And The Public Interest Will be Harmed If**
14 **The Cornman Tweedy Property Is Deleted From The Company's**
15 **Extended CC&N Area.**

16 Although Cornman Tweedy discounts and ignores the harm that Arizona Water
17 Company will suffer if the Cornman Tweedy property is deleted from its Extended CC&N
18 Area (CT Brief, at 22-24), the evidence shows that Arizona Water Company has without
19 question incurred costs in planning for service to the Cornman Tweedy property. *See*
20 *Schneider Direct-Phase II*, at 5:2-24 and Exs. FKS-2, FKS-3, FKS-4 & FKS-5; *Schneider*
21 *Surrebuttal-Phase II*, at 15:1-9. Arizona Water Company has a proven track record of
22 being a responsible and deliberate planner for the services it provides (*see, e.g.*, *Garfield*
23 *Direct-Phase II*, at 3:4-6:18; *Goldman Direct-Phase I*, at 11; *Transcript*, at 244:22-25), and
24 thus it defies credibility to even imply that the time and costs Arizona Water Company
25 has invested in planning for service to the Cornman Tweedy property are not material.
26 Aside from the expenses already incurred by Arizona Water Company, deletion of the
Cornman Tweedy property from Arizona Water Company's CC&N would also result in a

1 loss of revenue to Arizona Water Company once development occurs. This too is a very
2 real and tangible harm to Arizona Water Company and its customers.

3 The Commission should also consider the incidental harm that will be done to
4 Arizona Water Company, other stand-alone water companies, and the public interest by
5 deleting Arizona Water Company's CC&N for the Cornman Tweedy property. The
6 Arizona Supreme Court articulated these harms in *James P. Paul*--"a system which did
7 not provide certificate holders with an opportunity to provide adequate service at
8 reasonable rates before deletion of a certificated area could be made would be antithetical
9 to the public interest for several reasons." *Id.* at 429, 671 P.2d at 407. Deleting the
10 CC&N for the Cornman Tweedy property would wrongly penalize Arizona Water
11 Company for not having already built the infrastructure to serve it. *Id.* (absence of
12 opportunity to serve "encourages over-extensive development"). Cornman Tweedy relies
13 on the absence of Arizona Water Company infrastructure within the property in support of
14 its "no harm" argument. CT Brief, at 22, ll. 19-20. Deletion would also decrease the
15 value of the investment Arizona Water Company has already made in the surrounding
16 areas. *Id.* at 430, 671 P.2d at 408 (deletion without providing an opportunity to serve
17 "discourages service by companies that would supply water to sparsely populated areas
18 today, at a marginal profit, if they could be assured of an opportunity to provide extensive,
19 more profitable service when such service is needed").

20 As Arizona Water Company's brief explains, the precedent the Commission would
21 establish by deleting the Cornman Tweedy property from Arizona Water Company's
22 CC&N would also damage not just Arizona Water Company but also all other stand-alone
23 water providers. AWC Brief, at 34. The evidence in this case proves that the harm to
24 Arizona Water Company will be substantial and material.

1 **E. Arizona Water Company Is Ready, Willing, And Able To Cooperate**
2 **With Picacho Sewer To Achieve The Benefits Of Integration, But The**
3 **Record Shows That Cornman Tweedy And Picacho Sewer Are**
4 **Unwilling.**

5 Cornman Tweedy provides no evidentiary support for its self-serving and incorrect
6 suggestion that Arizona Water Company is unable to work with Picacho Sewer to provide
7 the benefits of integrated service. The only real impediment to Arizona Water Company
8 working with Picacho Sewer appears to be Picacho Sewer, Cornman Tweedy, and Robson
9 Communities themselves. *See* AWC Brief, at 31-32; CT Brief, at 19-20 (citing testimony
10 of J. Poulos). Arizona Water Company has made it clear on this record that it is
11 committed to working cooperatively with wastewater utilities, a fact the Commission
12 itself has recognized. *See, e.g.*, Decision No. 73146 (granting CC&N to Arizona Water
13 Company based, in part, on its partnership with Global to provide reclaimed water within
14 its CC&N area); Transcript, at 376:23-382:18, 447:17-452:6, 454:6-458:15, 508:12-
15 509:22. The Company's commitment to cooperate is shown by its partnerships and
16 agreements with Global, PERC, the City of Casa Grande, Saddlebrooke Ranch, and Gold
17 Canyon Sewer Company, among others. AWC Brief, at 9. Cornman Tweedy tries to
18 diminish the benefits that that will derive from these partnerships by emphasizing that
19 Arizona Water Company has not yet delivered reclaimed water as a result of them. CT
20 Brief, at 24, ll. 13-16. The evidence shows that Arizona Water Company is already
21 providing reclaimed water service and is poised to expand that service when reclaimed
22 water becomes available for beneficial use elsewhere in its CC&N areas. AWC Brief, at
23 7-9; Transcript at 480:11-481:16, 483:21-25, 525:23-526:7, 646:16-647:11. Where
24 reclaimed water is available and needed within Arizona Water Company's CC&N areas,
25 Arizona Water Company can and does provide reclaimed water.
26

1 **VI. CORNMAN TWEEDY'S SWEEPING PROCLAMATION THAT ARIZONA**
2 **WATER COMPANY IS NOT PROVIDING REASONABLE SERVICE**
3 **BECAUSE IT IS NOT ABLE TO PROVIDE INTEGRATED WATER AND**
4 **WASTEWATER SERVICE TO THE CORNMAN TWEEDY PROPERTY IS**
5 **UNSUPPORTED BY THE EVIDENCE.**

6 Arizona Water Company addressed at length in its Post-Hearing Brief how it is
7 providing reasonable service to the Cornman Tweedy property and how it can directly
8 provide integrated water and wastewater service or achieve the benefits of integration in
9 cooperation with Picacho Sewer (assuming it is willing) that achieves the benefits of
10 integrated service. AWC Brief, at 24-32. Cornman Tweedy fails to present any
11 compelling evidence that undermines the reasonableness of Arizona Water Company's
12 service. Arizona Water Company has already addressed at length why each of the
13 assertions presented by Cornman Tweedy in support of its erroneous claim that Arizona
14 Water Company is not able to provide reasonable service lacks merit. Furthermore,
15 Arizona Water Company does not hold a wastewater CC&N because there already are
16 wastewater providers in each certificated area that it serves. Schneider Direct-Phase II,
17 at 13:18-14:9.

18 Cornman Tweedy's suggestion that a supposed Commission preference for
19 integrated services somehow redounds to a finding that Arizona Water Company is unable
20 to provide reasonable service lacks merit. There is no evidence of any such "preference"
21 at the current Commission. And any alleged preference of any prior individual
22 Commissioner is clearly belied by the fact that the Commission has granted Arizona
23 Water Company's application for the Extended CC&N Area. Indeed, the Commission
24 granted Arizona Water Company the Extended CC&N Area, and later reaffirmed it,
25 regardless of any such alleged preference. *See* Decision No. 66893; Decision No. 69722.

26 Cornman Tweedy relies almost exclusively on Ernest Johnson's testimony to
support its reasonableness contention. CT Brief, at 27-28. But Mr. Johnson's testimony
actually supports a finding that Arizona Water Company provides reasonable service.

1 Picacho Sewer holds the wastewater CC&N for the Cornman Tweedy property and, thus,
2 Arizona Water Company cannot provide wastewater service in that area as a matter of law
3 unless the Commission deletes Picacho Sewer's wastewater CC&N. AWC Brief, at 32.
4 Read in the context of these facts, Mr. Johnson's testimony essentially admits that
5 standalone service providers must be used here, that service by standalone providers under
6 these circumstances is reasonable, and that "a collaborative arrangement can help
7 approximate some of the benefits of an integrated water and wastewater provider." See
8 Johnson Rebuttal, at 32, ll. 8-10, 15; Johnson Rejoinder, at 5, ll. 15-16, at 6, ll. 5-7;
9 Transcript, at 329:9-14, 330:7-331:25, 336:13-24.

10 **VII. THE RAMIFICATIONS OF A COMMISSION DECISION TO DELETE**
11 **THE CORNMAN TWEEDY PROPERTY FROM ARIZONA WATER**
12 **COMPANY'S EXTENDED CC&N AREA WILL NOT BE LIMITED TO**
13 **THIS CASE.**

14 Although Cornman Tweedy asserts that "the Commission's decision in this case
15 will be limited to the parties in this case and to the four corners of the Cornman Tweedy
16 Property" (CT Brief, at 30), the record suggests otherwise. Cornman Tweedy--its expert
17 Mr. Johnson in particular--relies heavily in this proceeding on the *Woodruff* case. Thus,
18 although the Commission in its discretion may not bind itself to blindly follow its prior
19 decisions, public service corporations, municipalities, and even individuals necessarily
20 look to Commission decisions as precedent and as indicative of Commission policy, and
21 rely on those decisions in forming opinions, making business decisions, and advocating
22 their position. It is disingenuous to suggest that a Commission decision in this case will
23 have no ramifications.

24 As to Cornman Tweedy's contention that a lack of intervention from industry
25 shows a general disinterest in these proceedings (*see* CT Brief, at 29), the record again
26 does not support such a contention. Indeed, Yarnell Water Company sent a letter (filed in
this docket on February 24, 2016), which stated as follows:

1 As a small water only utility in our community, we are concerned about the
2 potential that a Certificate of Convenience and Need (CC&N) could be
3 revoked to the benefit of a developer or an integrated water/waste water
4 provider who does not want to pay fair market value to purchase a territory
that has been legally granted through the CC&N process by the ACC. This
smacks of an illegal government taking for the benefit of a private entity.

5 Although it is only one of more than 280 water-only providers in Arizona, Yarnell Water
6 Company's words above and in the remainder of the letter demonstrate a real concern
7 about the precedent that might be set in this matter. Further, as Paul Walker explained,
8 Mr. Johnson's assumption that stand-alone water companies are not troubled by the
9 prospect that Arizona Water Company may lose its CC&N for the Cornman Tweedy
10 property because it is not integrated is not a fair one:

11 I think it belies an unfamiliarity with the life of a water company. It is true
12 that the larger companies have not intervened in this case--but there are six
13 large water companies in Arizona; EPCOR, Robson Utilities, Johnson
14 Utilities, Global Water, Liberty Utilities, and Arizona Water Company. Half
15 of those companies are clients of mine; and I can assure you that Liberty and
16 Global are aware of this case. It appears that Mr. Johnson wants companies
to weigh in on behalf of Arizona Water Company, and I believe they would
be willing to do so and strongly support Arizona Water Company's position
in this case.

17 As to the 276 companies that are smaller--they don't have staffs anything like
18 the electric utilities. Mr. Johnson is used to seeing APS, Tucson
19 Electric/Unisource, and Salt River Project intervening and tracking each
20 other's cases; what he doesn't point out is that each of those companies has
21 billion-dollar plus annual revenues. They have lots of analysts, attorneys and
22 lobbyists on staff and on contract to track the Legislature, County and City
23 Governments, Federal legislation, rules, and agency proceedings, and of
24 course, the Commission. Those costs are largely recovered through rates
paid by their customers. Water companies throughout Arizona, all combined,
don't have the annual revenues of any one of those entities--and are incapable
of tracking and intervening in each other's cases.

25 Walker Surrebuttal, at 8:7-26. Moreover, it is unfair to presume that each of Arizona's
26 280+ water companies, as well as Arizona's wastewater companies, even have notice of

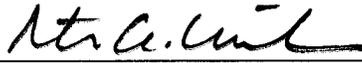
1 this proceeding. Transcript, at 663:21-24.

2 **VIII. CONCLUSION.**

3 For the foregoing reasons, as well as those set out in Arizona Water Company's
4 Post-Hearing Brief, the deletion of the Cornman Tweedy property from Arizona Water
5 Company's CC&N is not justifiable on this record and as a matter of law. Cornman
6 Tweedy's remaining claims should be dismissed with prejudice and the Commission
7 should find and order that Arizona Water Company shall retain the subject portion of its
8 CC&N unconditionally, in all respects.

9 Respectfully submitted this 6th day of May, 2016.

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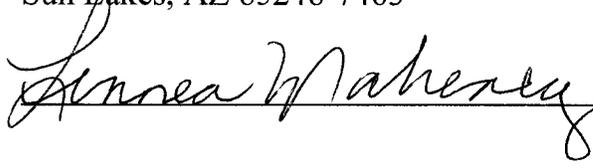
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